

Before the Building Practitioners Board

	BPB Complaint No. 26764
Licensed Building Practitioner:	Nathan Charles Ellis (the Respondent)
Licence Number:	BP 132755
Licence(s) Held:	Carpentry

Penalty Decision of the Board under section 318 of the Building Act 2004

Complaint or Board Inquiry:	Complaint
Hearing Dates:	16 December 2025 and 2 April 2026
Substantive Decision Date:	16 April 2026
Penalty Decision Date:	26 May 2026

Board Members Present

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr G Pearson, Barrister and Solicitor – Legal Member
Mr G Anderson, LBP, Carpentry and Site AoP 2

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Disciplinary Finding:

The Respondent **has** committed disciplinary offences under sections 317(1)(b), (g) and (h) of the Act.

The Respondent **has not** committed disciplinary offences under sections 317(1) (da)(ii) or (i) of the Act.

The Respondent is fined \$3,500 and ordered to pay costs of \$3,950. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

Contents

Summary of the Board's Penalty Decision	2
The Charges	2
Penalty	2
Costs.....	3
Publication of Name.....	3
Section 318 Order.....	5
Right of Appeal.....	5

Summary of the Board's Penalty Decision

- [1] The Respondent carried out building work in a negligent manner, breached the Code of Ethics for Licensed Building Practitioners in relation to a failure to ensure that building work that required a building consent had one prior to it being carried out and that he had carried out building work (design work) that he was not competent to carry out.
- [2] The Respondent is fined \$3,500, and ordered to pay costs of \$3,950. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

The Charges

- [3] This penalty decision arises out of the Board's substantive decision in which it found that the Respondent had committed disciplinary offence.
- [4] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [5] In its substantive decision, the Board set out its indicative position regarding penalty, costs, and publication and invited the Respondent to make written submissions on those matters.
- [6] On 16 and again on 20 February 2026, the Board received the Respondent's submissions. It has considered them and made the following decisions.

Penalty

- [7] The Board's initial view was that a fine of \$3,500 was warranted. The fine took into account mitigating factors that the Board accepted.
- [8] In his first submission, the Respondent stated he could pay overtime, which is an option. The Registrar is directed to engage with the Respondent regarding his payment.

Costs

- [9] The Board's initial view was that 3,950 in costs was appropriate. The same comments regarding time to pay made above also apply.

Publication of Name

- [10] The Board's initial view was that no specific publication orders would be made.
- [11] The Respondent has asked that no publication occur and that it would be a breach of his rights if the outcome was recorded on the Register and published.
- [12] The Substantive Decision set out that within New Zealand, there is a principle of open justice and open reporting, enshrined in the Bill of Rights Act 1990.¹
- [13] The Respondent, in essence, is asking for a suppression order.
- [14] The Criminal Procedure Act provides details on various grounds in respect of criminal matters. They are²:

Publication would be likely to:

- (a) cause extreme hardship to the person charged, a witness or a person connected to those persons or the matters; or*
- (b) cast suspicion on another person that may cause undue hardship to those persons; or*
- (c) cause undue hardship to any victim of the offence; or*
- (d) create a real risk of prejudice to a fair trial; or*
- (e) endanger the safety of any person; or*
- (f) lead to the identification of another person whose name is suppressed by order or by law; or*
- (g) prejudice the maintenance of the law, including the prevention, investigation, and detection of offences; or*
- (h) prejudice the security or defence of New Zealand.*

- [15] In *N v Professional Conduct Committee of Medical Council*,³ the High Court pointed to the following factors:

The tribunal must be satisfied that suppression is desirable having regard to the public and private interests and consideration can be given to factors such as:

- issues around the identity of other persons such as family and employers;*
- identity of persons involved and their privacy and the impact of publication on them; and*
- the risk of unfairly impugning the name of other practitioners if the responsible person is not named.*

¹ Section 14 of the Act

² Refer ss 200 and 202 of the Criminal Procedure Act

³ *ibid*

- [16] Generally, The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest⁴. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved, as naming them does not assist the public interest.
- [17] The Respondent has not established any grounds for a suppression order to be granted. There is no evidence of the possibility of extreme hardship, or of hardship to others.
- [18] Regarding the decision being recorded in the Register of Licensed Building Practitioners in accordance with section 301(1)(l)(iii) of the Act. The Register is established by section 298 of the Act, and section 299 sets out its purposes, which are:

The purpose of the Register is—

- (a) to enable members of the public to—*
 - (i) determine whether a person is a licensed building practitioner and, if so, the status and relevant history of the person’s [licensing]; and*
 - (ii) choose a suitable building practitioner from a list of licensed building practitioners; and*
 - (iii) know how to contact the building practitioner; and*
 - (iv) know which licensed building practitioners have been disciplined within the last 3 years; and*
- (b) to facilitate the administrative, disciplinary, and other functions of the Board and the Registrar under this Act.*

- [19] Section 301 of the Act sets out the matters to be contained in the Register. The section uses the phrasing “must”, which makes the provisions mandatory, not discretionary:

- (1) The Register must contain all of the following information, to the extent that the information is relevant, for each licensed building practitioner whose name is entered in the Register:*
 - (l) information about the status and history of the person’s [licensing], particularly—*
 - (i) the class [in which the person is licensed]; and*
 - (ii) the date on which the person’s name was entered in the Register; and*
 - (iii) any action taken under section 318 on a disciplinary matter in respect of the person in the last 3 years:*

- [20] The final provision, action taken under section 318, is the reason why details on the disciplinary offence must be contained in the Register.
- [21] Taking the above provisions into consideration, it is clear that one of the purposes of the Register is to allow an informed consumer to choose a Licensed Building

⁴ Kewene v Professional Conduct Committee of the Dental Council - [2013] NZAR 1055

Practitioner. Providing information as regards disciplinary action helps to facilitate this. It is also clear that the Board has no discretion as regards information on disciplinary action being retained on the Register.

[22] Based on the above, the public orders are confirmed.

Section 318 Order

[23] For the reasons set out above, the Board directs that:

Penalty: Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$3,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$3,950 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

Publication: The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 301(1)(l)(iii) of the Act.

In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be published on the Board's website.

[24] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

Right of Appeal

[25] The right to appeal Board decisions is provided for in s 330(2) of the Actⁱⁱ.

Signed and dated this 6th day of June 2026.



Mr M Orange
Presiding Member

ⁱ Section 318 of the Act

(1) In any case to which section 317 applies, the Board may

(a) do both of the following things:

(i) cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and

(ii) order that the person may not apply to be relicensed before the expiry of a specified period:

(b) suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:

-
- (c) *restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:*
 - (d) *order that the person be censured:*
 - (e) *order that the person undertake training specified in the order:*
 - (f) *order that the person pay a fine not exceeding \$10,000.*
 - (2) *The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).*
 - (3) *No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.*
 - (4) *In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.*
 - (5) *In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."*

ii Section 330 Right of appeal

- (2) *A person may appeal to a District Court against any decision of the Board—*
 - (b) *to take any action referred to in section 318.*

Section 331 Time in which appeal must be brought

An appeal must be lodged—

- (a) *within 20 working days after notice of the decision or action is communicated to the appellant;*
or
- (b) *within any further time that the appeal authority allows on application made before or after the period expires.*